IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 32032 of 2007(L)

PETITIONERS:
----

1. BABU PAUL, S/O. GEORGE,
VALLANAD HOUSE, KURAVAMPADI, AGALI,PALAKKAD DIST.

2. PRADEESH R., S/O.SANKARAN NAIR,
PUTHANVEETTIL, AGALI, PALAKKAD DISTRICT.

3. SANTHOSH V.S., S/O. SANKARAN NAIR,
VALIYAVEETTIL, AGALI, PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:
----

1. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
TALUK OFFICE, OTTAPALAM.

2. EXECUTIVE ENGINEER,
ATTAPADI VALLEY IRRIGATION PROJECT DIVISION,
AGALI, PALAKKAD DISTRICT.

3. TALUK TAHSILDAR,
TALUK OFFICE, MANNARKKAD.

4. CIRCLE INSPECTOR OF POLICE,
AGALI POLICE STATION, AGALI, PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 32032 OF 2007 L
==========

Dated this the 13th day of December, 2007

J U D G M E N T

Ext.P6 order is under challenge.

2. It is the case of the petitioner that he had participated in auction held on 22/9/07 by the Executive Engineer, AVIP, Agaly, in which he was the successful bidder for 15 loads of river sand. Time for transportation was initially upto 8/10/2007 and was later extended upto 20/10/2007. According to him, while he was transporting river sand with due authorisation, on 18/10/2007, the Circle Inspector of Police, Agaly seized three of his truck loads and that ultimately lead to Ext.P6 order by the RDO, Ottappalam.

3. Ext.P6 is seen to have been an order passed by the Revenue Divisional Officer, Ottappalam. In terms of the provisions contained in the Protection of River Banks and Regulation of Removal of Sand Act and Rules, it is the District Collector, who is the competent authority to decide the issue. If that be so, Ext.P6 has to be set aside for that reason.

4. That apart, Ext.P6 does not show that any one of the

documents relied on by the petitioner or the contentions raised by the petitioner relying on the passes that are issued by the Executive Engineer, AVIP Division has been referred to or dealt with. Thus Ext.P6 is also bad for non application of mind as well.

5. For these reasons, Ext.P6 will stand quashed and I direct that the matter will be considered by the District collector, Palakkad, to whom the 1st respondent shall transmit the records of the case. District Collector shall thereafter with notice to the petitioners reconsider the matter.

6. In the meanwhile, it is directed that the respondents will retain the amount that is deposited by the petitioner pursuant to the order dated 29/10/2007 passed in this case and the appropriation or refund thereof, will depend upon the decision to be taken by the District Collector as above.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp